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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

July 15, 1997

BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Re: In the Matter of Electronic Filing of Documents in
Rulemaking Proceedings GC Docket No. 97-113

Dear Mr. Caton:

The Federal Communications Bar Association ("FCBA"),¹ respectfully requests that this letter be included with the comments filed in the above-captioned proceeding. It should be said at the start that the FCBA strongly supports the Commission's efforts to create a system for filing electronic comments. We believe that an electronic filing system offers clear benefits to our membership as well as to the general public. However, we do have the following comments and suggestions.

Security. As the Commission recognized in its Notice of Proposed Rulemaking ("NPRM"), electronic filing raises several concerns involving security and document authentication. NPRM, ¶¶15-17. We believe that these concerns can be addressed to some extent by establishing a password protection system that would require parties to register with the Commission on a one-time basis.

¹ The FCBA is a non-profit, non-stock corporation organized under the laws of the District of Columbia, and has been in existence since 1936. The FCBA's membership consists of over 3,100 attorneys and other professionals involved in the development, interpretation and practice of communications law and policy. This letter was prepared by the FCBA's Ad Hoc Committee on Computer Networking and approved by the FCBA's Executive Committee, its elected board of directors. As in the case of comments filed on behalf of the FCBA, the views expressed in this letter do not necessarily reflect the views of each and every FCBA member. In addition, two members of the Executive Committee, who are employees of the FCC, did not participate in the discussion or consideration of these Comments or in the vote to authorize their filing.

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Without a minimal password system, electronic filing could lead to the easy filing of disingenuous and abusive filings. Electronic vandalism is a growing concern on the Internet, particularly at governmental sites. Disgruntled individuals have been known to flood comment areas with obscene and inappropriate writings. With electronic filing, such individuals could easily download properly filed comments and then proceed to alter them in order to harm either the Commission or the commenting party. With an appropriate password registration system, nuisance filers could be barred from logging on to the network.

Another danger involves the use of electronic comment filing to launch mass e-mail campaigns. Web sites could be created and linked to the FCC's site in order to lobby for a particular position under consideration by the Commission. Such manipulation of electronic comment filing could distort the Commission's decision-making processes. Registered parties would be advised that they would lose permission to file electronic comments if they act in a manner that is abusive to the system.

The FCBA suggests that parties be required to register as electronic filers with the FCC. At this time they would obtain a password that would be required whenever comments are filed. In the case of law firms, a single password could be issued to a firm to cover all of the attorneys at that firm. Password protected areas are very common on the World Wide Web, and this would not present an unreasonable burden to electronic filers. It is nearly unheard of to allow parties to upload documents in any online system without first obtaining some level of system permission and a password. The Commission's rulemaking dockets are no less serious and should be afforded no less security.

Having a list of all filers will simplify site administration. The initial verification scripts will be easier to design and easier for the user because information about each party will be stored in the registration database. Instead of having to repetitively fill out online forms, with the great possibility of inconsistency and error, a commenting party would only have to enter the applicable password. The process of confirming that comments have been filed will be simplified because the information can automatically be sent to the electronic address specified by the filer at the time of registration.

Most importantly, with password protection, the Commission would have a mechanism available to deny permission to those who have subjected the system to abuse or mischief. Without a password protected registration system there is no way to cut off access to those who do not act in good faith.

In sum, a password would be available to all good faith filers. No party would be initially prevented from filing comments. The additional burden of

registration would be minor and not uncommon to users of the Internet and/or other online environments. On the other hand, the gains would be substantial in terms of added security and prevention of abuse. Therefore, the Commission should adopt a password registration system for all commenting parties.

E-mail Type Comments. The FCBA believes that according equal status to e-mail type comments in rulemaking proceedings raises several practical and legal issues. As the Commission notes in the NPRM, some dockets have already received electronic comments numbering in the hundreds of thousands. NPRM, ¶3. Affording substantial review to each e-mail comment filed could present workload difficulties that could stretch the Commission's resources. Issues might also arise involving the standard for judicial review of proceedings in which such comments are filed.

The Commission will be entering uncharted waters by accepting e-mail comments in a manner equivalent to traditionally filed comments. We believe that more discussion is needed at this time in order to balance the need for public participation against the Commission's need to conduct its proceedings in an orderly, efficient and administratively sound manner.

Browser Formats. The FCBA strongly believes that the electronic filing system should support all major web browsers. The system should not be designed to support the proprietary software of a single software company. At present, we understand that the system only supports Netscape 3.0. Maintaining the system with this limitation will deny access to a significant number of users who do not use Netscape 3.0. The system must be designed to handle other web browsers.

Desirability of Other Media. The FCBA submits that in addition to the Internet site, parties should be able to submit and receive files in other, more convenient media. Given the large amounts of data typically filed in rulemaking proceedings it will be awkward for users to obtain this information exclusively from the Commission's web site. With the current limited bandwidth of the Internet, downloading all of the comments in a docket could take one or more hours at modem speeds of 14.4 or 28.8. FCBA members need to have access to comments in a quick and efficient manner.

Since the files would be in electronic form, it would not be difficult for the Commission to provide electronic copies to the public on CD-ROM or floppy disk. This operation could be handled by the copy contractor or by a private company. The Commission could make these files available itself. It is certainly no more difficult to master a CD-ROM containing groups of files than it is to convert these files to a web viewable form and present them on a web page.

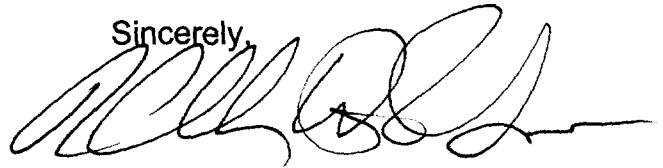
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Without the ability to obtain all of the comments on disk or CD-ROM, parties will still have to resort to retrieving paper copies from the Commission's reference room. The Commission should be aware that the bandwidth issue is not likely to disappear in the near future. ISDN is still too costly for most businesses. Cable modems and other Internet delivery systems are years away from wide spread adoption. To meet the needs of attorneys and members of the public who require immediate access to the large amounts of electronic data, the FCBA requests that files be made available on appropriate disk or CD-ROM media.

Conclusion. The FCBA supports and encourages electronic filing. If implemented correctly, the efficiency of Commission rulemaking proceedings could be significantly enhanced. We believe that at a minimum, a password system is required to protect the security of filers. The system should also be designed to handle all major web browsers, not just Netscape 3.0. Finally, having received the information in electronic form, the Commission should make that information available to the public using other media that does not suffer the bandwidth problems encountered when transferring large amounts of data across the Internet.

We thank you very much for this opportunity to comment on your electronic filing initiative.

Sincerely,

A handwritten signature in black ink, appearing to read 'R. Clark Wadlow', with a long horizontal flourish extending to the right.

R. Clark Wadlow
President